

Please ignore Phil Lelyveld comments regarding the Broadcast Flag. He works for Disney and his job is to make sure the Broadcast Flag becomes a legal requirement. It is in his and Disney's best interest that laws are passed that make it a criminal offense to engage in activities that would otherwise be protected as fair-use. He incorrectly stated the following as fact:

DON'T SELL OUT TO MILLIONAIRES CLAIMING TO REPRESENT  
THE PEOPLE

! DigitalConsumer.com is two dot.com millionaires claiming to represent "the people." They represent nothing more than a free website. We need the Broadcast Flag in place so that REAL PEOPLE who spend their lives creating content can work in a sustainable business environment where they can get paid for their work. We do not want to live in the world DigitalConsumer dot is trying to create for us, where we are all artist/waiters.

This is the pot calling the kettle black. Disney is not the least bit interested in the interest of the consumer. They are only concerned about making greater and greater profits and making consumers pay over and over again for the same worn "content". The Disney executives, like Phil Lelyveld, certainly do not speak for THE PEOPLE. He is just another of the executive millionaires at the studios who are claiming to represent the people's interest by taking away their rights to fair-use.

Also note that there are no Constitutional provisions to protect businesses from failing. If the evolution of technology eliminates some segment of the business market, such as the delivery of music on disks of vinyl, then this change in status quo is simply a refinement of the market that allows consumers to obtain goods and services for a lower cost. The "sustainable business environment" expectation should not be protected by making citizens criminals for using new technology. This will reduce future innovation and create a stagnant business environment.

We have laws in place that protect the studios. We don't need additional laws that will only harm consumers and do nothing to reduce the possibility of illegal sales of bootleg video and music.

Reselling and distributing illegally obtained content is already illegal and should be prosecuted. This is a completely different matter than preventing a consumer from making backup copies of content they purchased or time delaying the viewing of the content. The studios wish to evil sounding piracy issue in justifying their attack on fair-use rights. The two activities have been lumped together by the studios and the legal enforcement of a Broadcast Flag has been served up as a solution that will stop piracy, with the unspoken sideeffect of killing fair-use rights.

The Broadcast Flag will do nothing to stop the determined criminal making copies of a broadcast. The security mechanism is too weak to be effective and there will always be illegal circumvention equipment available if there is a profit incentive to use it. The only possible outcome they can expect to achieve is to prevent honest people from using the content they purchase in the manner in which they would like to use it. This is hardly a smart move. It is labeling your customers as criminals that are guilty until proven innocent.

Why is information delivered as bits being given special treatment over paper based information? I have fair-use rights to paper based products I buy. I can rip a book to pieces and give away pages to strangers on the street. I can copy pages from the book using pen and ink or a copy machine. The only restriction is that I cannot mass produce the work and sell the reproductions without permission. The same laws already apply to digitally based information. The Broadcast Flag adds nothing to protect these consumer rights. It simply gives power to the studios to control when and how the consumer is allowed to view their products.

The only effect the Broadcast Flag will have is to strip the consumer of their fair-use rights to content they purchase. It is just another law that will make every citizen a potential criminal for doing something that is a private activity of the individual. It is the government intruding on the home once again.

I agree with the following comments that were drafted by DigitalConsumer.com:

Please SUPPORT the broadcast flag effort.

As a consumer of digital content, I have a grave concern about the proposed Broadcast Flag. I enjoy the flexibility and control that technology gives me. I can be more than a passive recipient of content; I can modify, create and participate. Technology currently gives me more choices by allowing me to record a television program and watch it later; clip a small piece of TV and splice it into a home movie; send an email clip of my child's football game to a distant relative; or record a TV program onto a DVD and play it at my friend's apartment. The broadcast flag seems designed to remove this control and flexibility that I enjoy.

Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time.) Diamond Multimedia invented the MP3 player -- a recording label did not. Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers.

I am a law-abiding consumer who believes that piracy should be prevented and prosecuted. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then the FCC should be working to protect all consumers rather than enable those who would restrict consumer rights. In the case of the broadcast flag, it seems that it will have little effect on piracy. With file-sharing networks, a TV program has only to be cracked once, and it will propagate rapidly across the Internet. So, while I may be required to purchased consumer electronic devices that cost more and allow me to do less, piracy will not be diminished.

In closing, I urge you to require the content industry to demonstrate that its proposed technologies will allow for all legal uses and will actually achieve the stated goal of preventing piracy. If they cannot, I urge you not to mandate the broadcast flag.